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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,114	01/29/2004	Jerry F. Sullivan	COLT 20.873 (101402-00008)	4433
26304	7590	05/26/2005	EXAMINER	
KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585			GROSSO, HARRY A	
			ART UNIT	PAPER NUMBER
			3727	
DATE MAILED: 05/26/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/767,114

Applicant(s)

SULLIVAN ET AL.

Examiner

Harry A. Grosso

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/29/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Objections

1. Claim 24 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. In claim 24 the wherein clause recites a first container filled with a material for dental work and a second container filled with another material. Examiner considers this to be intended use which has no impact on the structure of the container arrangement of claim 21, therefore claim 24 is not further limiting with respect to claim 21 from which it depends.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14 is dependent on claim 3, which has been canceled. Examiner has read this claim as being dependent on claim 13 for purposes of addressing the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 13-18 and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Ransom (2,420,191).
6. Claims 13, 14, 19, 21, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Iacono (4,037,766).
7. Regarding claims 13, 14 and 17, Ransom discloses a retaining device for at least two containers with a basic body (6, Figures 1-3), an accommodating opening for the containers (12, 13) and mounts (15, 16, 17, 18) for containers and the device is designed for removal of the containers in a fixed sequence.
8. Regarding claim 15, Ransom discloses the device is plastic (column 1, lines 27-33) that is resilient and allows the containers to be inserted and removed and held securely.
9. Regarding claim 16, Ransom discloses the device with a handle (20) that has gripping surfaces on the top, bottom and sides of the handle.
10. Regarding claim 18, Ransom discloses the device has profiles for securing the containers (15, 16, 17, 18, column 1, lines 48-55).
11. Regarding claim 21, Ransom discloses a container arrangement having at least two containers and a retaining device where the containers can be removed in a predeterminable sequence (Figure 1).
12. Regarding claim 22, Ransom discloses the container arrangement of claim 21 and that the retaining device accommodates the containers in a form fitting manner (column 1, lines 48-55).

13. Regarding claim 23, Ransom discloses the retaining device of claim 13 with a container arrangement for accommodating at least two containers.

14. Regarding claim 24, Ransom discloses the container arrangement of claim 21. The wherein clause recites a first container filled with a material for dental work and a second container filled with another material. Examiner considers this to be intended use, which has no impact on the structure of the container arrangement of claim 21.

15. Regarding claims 13 and 14, Iacono discloses a retaining device for at least two containers with a basic body (10, Figures 1-2), an accommodating opening for the containers (14, 16, 18) and mounts (the edges of slots 14, 26, 18) for containers and the device is designed for removal of the containers in a fixed sequence.

16. Regarding claim 19, Iacono discloses a standing surface (44).

17. Regarding claim 21, Iacono discloses a container arrangement having at least two containers and a retaining device where the containers can be removed in a predeterminable sequence (Figure 1)

18. Regarding claim 23, Iacono discloses the retaining device of claim 13 with a container arrangement for accommodating at least two containers.

19. Regarding claim 24, Iacono discloses the container arrangement of claim 21. The wherein clause recites a first container filled with a material for dental work and a second container filled with another material. Examiner considers this to be intended use, which has no impact on the structure of the container arrangement of claim 21.

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ransom in view of Eliassen (4,022,363). Ransom discloses the retaining device of claim 14 as discussed in paragraph 5 above but Ransom does not teach the ability to prevent preliminary opening of the containers. Eliassen discloses a retaining device for containers with a shield over the top of the accommodating opening to protect the containers and prevent opening of the containers prior to removal from the retaining device (21, Figure 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a shield over the top of the accommodating opening as disclosed by Eliassen in the retaining devices disclosed by Ransom to protect the containers and prevent opening of the containers prior to removal from the retaining device.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on 571-272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lee Young
Supervisory Patent Examiner
Art Unit 3727

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